

ESTTA Tracking number: **ESTTA380621**

Filing date: **11/24/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Whitehat Security, Inc.
Granted to Date of previous extension	11/24/2010
Address	3003 Bunker Hill Lane Santa Clara, CA 95054 UNITED STATES
Correspondence information	Sally M. Abel, Stephen R. Garcia and all other attorneys of Fenwick & West LLP 801 California Street Mountain View, CA 94041 UNITED STATES trademark@fenwick.com Phone:650-988-8500

Applicant Information

Application No	77669258	Publication date	07/27/2010
Opposition Filing Date	11/24/2010	Opposition Period Ends	11/24/2010
Applicant	Telehouse International Corporation of America 7 Teleport Drive Staten Island, NY 10311 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Telecommunications consultation
Class 042. All goods and services in the class are opposed, namely: Computer consultation in the field of computer security; Information technology consultation; Information technology services, namely, consultation in the field of assessing, correcting and managing computer network vulnerabilities; Computer services, namely, computer system administration of firewalls for others

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	SENTINEL
Goods/Services	website vulnerability management and security services

Attachments	Notice_of_Opposition_to_WEVSENTINEL.pdf (2 pages)(25206 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stephen Garcia/
Name	Stephen R. Garcia
Date	11/24/2010

NOTICE OF OPPOSITION

Whitehat Security, Inc. (“Opposer”), a Delaware corporation having a principal place of business at 3003 Bunker Hill Lane, Santa Clara, CA 95054, believes it will be damaged by registration of the mark WEVSENTINEL as currently shown in United States Trademark Application Serial No. 77/669,258 (“Application”), filed by Telehouse International Corporation of America (“Applicant”), and published on July 27, 2010. Opposer therefore opposes said Application.

Opposer has requested and received extensions of time until November 24, 2010, in which to oppose said Application. Thus, this Notice of Opposition is timely filed today.

As grounds for its opposition, Opposer alleges as follows:

1. As is evidenced by the publication of the WEVSENTINEL mark in the July 27, 2010 issue of the Official Gazette, Applicant seeks to register WEVSENTINEL in International Class 38 for “Telecommunications consultation” and in International Class 42 for “Computer consultation in the field of computer security; Information technology consultation; Information technology services, namely, consultation in the field of assessing, correcting and managing computer network vulnerabilities; Computer services, namely, computer system administration of firewalls for others.” The application was filed on February 12, 2009, based solely on Applicant’s claimed intent to use the mark in commerce.

2. Upon information and belief, Applicant intends to use the mark for network, server, and web-based application vulnerability security services.

3. Upon information and belief, Applicant uses “WEV” as an acronym for “website application vulnerability” [*sic*], which is purely descriptive of Applicant’s intended related services, leaving “SENTINEL” as the only distinctive portion of the WEVSENTINEL mark.

4. In or around March 2003, nearly six years prior to the filing of the Application, Opposer began commercial use of SENTINEL as a trademark for website vulnerability management and security services. Through this prior use, Opposer has established common law

trademark rights in the SENTINEL mark. Opposer's use of its SENTINEL mark has been valid and continuous since Opposer's date of first use and has not been abandoned; therefore, there is no issue as to priority as Opposer commenced use of its SENTINEL mark nearly six years earlier than Applicant's filing date.

5. As a consequence of Opposer's extensive marketing, promotion, advertising, and sales activities under its SENTINEL mark, the mark has come to be identified as a designation of Opposer's services and, as a result, is a valuable asset of Opposer and a principal symbol of its goodwill.

6. In view of the fact that the parties' marks are virtually identical for identical services, it is alleged that Applicant's WEVSENTINEL mark so resembles Opposer's SENTINEL trademark as to be likely to cause confusion or to cause mistake or to deceive, thereby causing loss, damage and injury to Opposer and the purchasing public.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained, that Applicant's Trademark Application Serial No. 77/669,258 be rejected, and that Applicant be denied registration of WEVSENTINEL as a trademark for the services specified in the application.